

Small Business Administration

§ 102.27

because it contains information classified by another office or agency, the office shall refer the responsibility for responding to the request regarding that information to the office or agency that classified the underlying information. Information determined to no longer require classification shall not be withheld from a requester on the basis of Exemption (k)(1) of the Privacy Act.

(f) *Notice of referral.* Whenever an office refers all or any part of the responsibility for responding to a request to another office or agency, it shall notify the requester of the referral and inform the requester of the name of each office or agency to which the request has been referred and of the part of the request that has been referred.

(g) *Responses to consultations and referrals.* All consultations and referrals shall be processed according to the date the access request was initially received by the first office or agency, not any later date.

(h) *Agreements regarding consultations and referrals.* Offices may make agreements with other offices or agencies to eliminate the need for consultations or referrals for particular types of records.

§ 102.26 Responses to requests for access to records.

(a) *Acknowledgements of requests.* On receipt of a request, an office shall send an acknowledgement letter to the requester.

(b) *Grants of requests for access.* Once an office makes a determination to grant a request for access in whole or in part, it shall notify the requester in writing. The Program/Support Office Head or designee shall inform the requester in the notice of any fee charged under § 102.31 and shall disclose records to the requester promptly on payment of any applicable fee. If a request is made in person, the office may disclose records to the requester directly, in a manner not unreasonably disruptive of its operations, on payment of any applicable fee and with a written record made of the grant of the request. If a requester is accompanied by another person, he or she shall be required to authorize in writing any discussion of

the records in the presence of the other person.

(c) *Adverse determinations of requests for access.* A Program/Support Office Head or designee making an adverse determination denying a request for access in any respect shall notify the requester of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that the requested information is not a record subject to the Privacy Act; a determination on any disputed fee matter; and a denial of a request for expedited treatment. The notification letter shall be signed by the Program/Support Office Head or designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any FOIA or Privacy Act exemption(s) applied in denying the request; and

(3) A statement that the denial may be appealed under § 102.27(a) and a description of the requirements of § 102.27(a).

§ 102.27 Appeals from denials of requests for access to records.

(a) *Appeals.* If the requester is dissatisfied with an office's response to his or her request for access to records, the requester may make a written appeal of the adverse determination denying the request in any respect to the SBA's FOI/PA Office, 409 3rd St., SW., Washington, DC 20416. The appeal must be received by the FOI/PA Office within 60 days of the date of the letter denying the request. The requester's appeal letter should include as much information as possible, including the identity of the office whose adverse determination is being appealed. Unless otherwise directed, the Chief, FOI/PA will decide all appeals under this subpart.

(b) *Responses to appeals.* The decision on a requester's appeal will be made in writing not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such appeal. A decision affirming an adverse determination in whole or in

part will include a brief statement of the reason(s) for the affirmation, including any Privacy Act exemption applied, and will inform the requester of the Privacy Act provisions for court review of the decision. If the adverse determination is reversed or modified on appeal in whole or in part, the requester will be notified in a written decision and his request will be reprocessed in accordance with that appeal decision.

(c) *Judicial review.* In order to seek judicial review by a court of any adverse determination or denial of a request, a requester must first appeal it to the FOI/PA Office under this section.

§ 102.28 Requests for amendment or correction of records.

(a) *How made and addressed.* Unless the record is not subject to amendment or correction as stated in paragraph (f) of this section, an individual may make a request for amendment or correction of an SBA record about himself or herself by writing directly to the office that maintains the record, following the procedures in § 102.24. The request should identify each particular record in question, state the amendment or correction sought, and state why the record is not accurate, relevant, timely, or complete. The requester may submit any documentation that he or she thinks would be helpful. If the requester believes that the same record is in more than one system of records, that should be stated and the request should be sent to each office that maintains a system of records containing the record.

(b) *Office responses.* Within ten (10) days (excluding Saturdays, Sundays, and legal public holidays) of receiving a request for amendment or correction of records, an office shall send the requester a written acknowledgment of receipt, and the office shall notify the requester within 30 days (excluding Saturdays, Sundays, and legal public holidays) of receipt of the request whether it is granted or denied. If the Program/Support Office Head or designee grants the request in whole or in part, the amendment or correction must be made, and the requester advised of his or her right to obtain a copy of the corrected or amended

record. If the office denies a request in whole or in part, it shall send the requester a letter signed by the Program/Support Office Head or designee that shall state:

(1) The reason(s) for the denial; and

(2) The procedure for appeal of the denial under paragraph (c) of this section, including the name and business address of the official who will act on your appeal.

(c) *Appeals.* An individual may appeal a denial of a request for amendment or correction to the FOI/PA Office in the same manner as a denial of a request for access to records (see § 102.27), and the same procedures shall be followed. If the appeal is denied, the requester shall be advised of his or her right to file a Statement of Disagreement as described in paragraph (d) of this section and of his or her right under the Privacy Act for court review of the decision.

(d) *Statement of Disagreement.* If an appeal under this section is denied in whole or in part, the requester has the right to file a Statement of Disagreement that states the reason(s) for disagreeing with the SBA's denial of his or her request for amendment or correction. A Statement of Disagreement must be concise, must clearly identify each part of any record that is disputed, and should be no longer than one typed page for each fact disputed. An individual's Statement of Disagreement must be sent to the office that maintains the record involved, which shall place it in the system of records in which the disputed record is maintained and shall mark the disputed record to indicate that a Statement of Disagreement has been filed and where in the system of records it may be found.

(e) *Notification of amendment/correction or disagreement.* Within 30 days (excluding Saturdays, Sundays, and legal public holidays) of the amendment or correction of a record, the office that maintains the record shall notify all persons, organizations, or agencies to which it previously disclosed the record, if an accounting of that disclosure was made, that the record has been amended or corrected. If an individual has filed a Statement of Disagreement, the office shall append a